

In the Court of Appeals of the State of Alaska

Brian Wassillie Fancyboy,
Appellant,

v.

State of Alaska,
Appellee.

Court of Appeals No. **A-13208**

Order

Date of Order: **July 13, 2021**

Trial Court Case No. **4SM-17-00031CR**

The Appellant, Brian Wassillie Fancyboy, appealed his felony sentence to this Court. In *Fancyboy v. State*, Alaska App. Memorandum Decision No. 6943 (May 19, 2021), this Court remanded the case for reconsideration of some of the conditions of Fancyboy’s probation, and to prepare and distribute a corrected presentence report.

Mr. Fancyboy was represented by counsel at public expense in this appeal. Under Alaska Appellate Rule 209(b)(5), at the conclusion of any appellate case in which a criminal defendant is represented by court-appointed counsel, the Clerk of the Appellate Courts is directed to “enter judgment against the defendant for the cost of appointed appellate counsel unless the defendant’s conviction was reversed by the appellate court.” Because Mr. Fancyboy was represented by court-appointed counsel in this appeal, because Fancyboy’s appeal was a felony sentence appeal — and because Mr. Fancyboy’s conviction was not reversed — the Appellate Court Clerk’s Office notified Mr. Fancyboy that it intends to enter judgment against him in the amount of \$500 for the cost of counsel. *See* Alaska Appellate Rule 209(b)(6). Mr. Fancyboy objects to entry of judgment for the cost of appointed counsel.

Appellate Rule 209(b)(5) and (6) requires criminal defendants whose convictions are not reversed on appeal to reimburse to the government a portion of the cost of the attorneys who represent them at public expense. In his opposition to the entry

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of judgment for the cost of appellate counsel, Mr. Fancyboy asserts that the Yukon-Kuskokwim Delta has a high unemployment rate, and that the entry of the judgment could hinder his rehabilitation and may effect his successful reintegration to society upon his release from custody.

The Court recognizes that an appellant may obtain relief from a judgment for the cost of appointed counsel upon a showing of manifest hardship on the appellant or his or her family. But in his opposition to the entry of the judgment, Mr. Fancyboy has not made such a showing.

Because this Court did not reverse Mr. Fancyboy's conviction in this appeal, Mr. Fancyboy is required to reimburse to the government a portion of the cost of the attorney who represented him at public expense. Accordingly, the decision of the Appellate Court Clerk to enter a \$500.00 judgment against Mr. Fancyboy for the cost of counsel under Appellate Rule 209(b) is **AFFIRMED**.

Entered at the direction of Chief Judge Allard.

Clerk of the Appellate Courts



Ryan Montgomery-Sythe,
Chief Deputy Clerk

cc: Brian Fancyboy at Spring Creek Correctional Center

Distribution:

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